

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

GIDGET LEWIS, INDIVIDUALLY AND §
ON BEHALF OF THE HEIRS AND OF §
THE ESTATE OF ANDREA MARQUIS §
LEWIS, DECEASED, ALTON MOYE, §
AND LINDA DELL JOHNSON, §
INDIVIDUALLY AND ON BEHALF §
OF GIDGET LEWIS AND THE HEIR §
AND THE ESTATE OF ANDREA M. §
LEWIS, §
PLAINTIFFS §

v. §

WENTWOOD ST. JAMES, L.P., §
ST. JAMES PLACE APARTMENTS, §
ST. JAMES APARTMENTS, AMERICAN §
MANAGEMENT SERVICES §
LLC d/b/a PINNACLE, §
GROCH ASSOICATES, WENTWOOD §
ST. JAMES PARTNERS, L.L.C., §
DEFENDANTS §

NO. 11-CV-02017

**DEFENDANTS' MOTION FOR LEAVE TO
DESIGNATE RESPONSIBLE THIRD PARTY
AND MEMORANDUM IN SUPPORT**

TO THE HONORABLE JUDGE OF SAID COURT:

Wanda – 1 GP, Inc., American Management Services, L.L.C. d/b/a Pinnacle, and
Wentwood St. James Partners, L.L.C. (collectively “Defendants”) file this Motion for
Leave to Designate Responsible Third Party pursuant to the Civil Practice and Remedies
Code Section 33.004 and would respectfully show the court as follows:

I. INTRODUCTION

1. Plaintiffs are Gidget Lewis, Alton Moye and Linda Dell Johnson, Individually and on Behalf of the Heirs and of the Estate of Andrea Marquis Lewis, Deceased. Defendants are Wanda – 1 GP, Inc., American Management Services, L.L.C. d/b/a Pinnacle, and Wentwood St. James Partners, L.L.C.
2. The Responsible Third Party is Jamie Alan Adams (“adult responsible third parties”). Jamie Alan Adams was convicted of the murder of Andrea Marquis Lewis and was sentenced to thirty years in the Texas Department of Corrections.
3. Plaintiffs sued Defendants asserting claims based on premises liability, fraud, breach of contract and gross negligence. Plaintiffs contend the apartment complex where Andrea Lewis lived was unsafe and that Defendants failed to protect Andrea Lewis proximately causing his death.
4. Defendants deny the allegations made by Plaintiffs and seek to designate Jamie Alan Adams as the responsible third party for the murder of Andrea Lewis.
5. This case is set for trial on August 27, 2012. Defendants request leave to designate responsible third parties pursuant to Civil Practices & Remedies Code Section 33.004.

II. FACTS

6. Defendants file this motion more than 60 days before the date for trial.
7. Defendants would show that the above-entitled lawsuit arose as a result of the murder of Andrea M. Lewis by Jamie Alan Adams on or about April 29, 2009.
8. Upon information and belief, the responsible third party, Jamie Alan Adams shot Andrea M. Lewis. The responsible third party pled guilty to the murder of Andrea M. Lewis and was sentenced to thirty years in the Texas Department of Corrections. The

responsible third party, Jamie Alan Adams, was the proximate cause of Andrea M. Lewis' injuries.

9. The responsible third party is liable to the Plaintiff because he intentionally shot Andrea M. Lewis and caused his death.

III. ARGUMENT

10. Jamie Alan Adams is a responsible third party within the meaning of Texas Civil Practices & Remedies Code § 33.011(6) because he caused the death of Andrea M. Lewis, which is the harm for which Plaintiffs are seeking damages. Tex.Civ.Prac.& Rem. Code § 33.011(6).

11. Defendants are entitled to designate Jamie Alan Adams as a responsible third party. A defendant may seek to designate a person as a responsible third party by filing a motion for leave to designate that person as a responsible third party. Tex.Civ.Prac.& Rem Code § 33.004(a). The motion must be filed on or before the 60th day before the trial date unless the court finds good cause to allow the motion to be filed at a later date. Tex.Civ.Prac.&Rem Code § 33.004(a).

12. The Court should allow the filing of Defendants designation because it is timely and there will be no prejudice to Plaintiffs. Further, the Defendants will be prejudiced in obtaining relief if not allowed to designate.

13. Defendants seek to designate Jamie Alan Adams as the responsible third party.

WHEREFORE PREMISES CONSIDERED, Defendants, Wanda – 1 GP, Inc., American Management Services, L.L.C. d/b/a Pinnacle, and Wentwood St. James Partners, L.L.C. pray this Motion for Leave to Designate Responsible Third Parties be

granted and for such other relief both in equity and in law to which Defendants may show themselves justly entitled.

Respectfully submitted,

JONES, GILLASPIA & LOYD, L.L.P.

By: /s/ Kathleen A. O'Connor
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**ATTORNEYS FOR
DEFENDANTS**

CERTIFICATE OF CONFERENCE

I HEREBY CERTIFY that on October 3, 2011, I sent counsel, Mr. Ed Rainey an email asking if he was opposed to my Motion for Leave to Designate Jamie Alan Adams as a Responsible Third Party. As of the filing of this motion, no response has been received.

/s/ Kathleen A. O'Connor

Kathleen A. O'Connor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of October 2011. I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing is being served this day upon all counsel of record identified either via transmission of Notices of Electronic Filing generated by CM/ECF, or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing, in accordance with the Federal Rules of Civil Procedure.

/s/ Kathleen A. O'Connor

Kathleen A. O'Connor

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ORDER

On this _____ day of _____, 2011 came on to be heard Defendants' Motion for Leave to Designate Responsible Third Party. After reviewing the pleadings on file, applicable law and arguments of counsel the Court hereby GRANTS the motion.

IT IS THEREFORE ORDERED that Jamie Alan Adams is designated a responsible third party.

Signed _____

Judge Presiding